

## 16 Am. Jur. 2d Constitutional Law § 101

American Jurisprudence, Second Edition | February 2021 Update

### Constitutional Law

Barbara J. Van Arsdale, J.D.; James Buchwalter, J.D.; Paul M. Coltoff, J.D.; John A. Gebauer, J.D.; Lonnie E. Griffith, Jr., J.D.; Janice Holben, J.D.; Sonja Larsen, J.D.; Lucas Martin, J.D.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; Karen L. Schultz, J.D.; Jeffrey J. Shampo, J.D.; and Kimberly C. Simmons, J.D.

### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### a. In General

### § 101. Self-executing nature of constitutional provisions, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 640

A constitution is usually a declaration of principles of the fundamental law, many of its provisions being only commands to the legislature to enact laws to carry out the purposes of the framers of the constitution or mere restrictions upon the power of the legislature to pass laws.<sup>1</sup> However, it is entirely within the power of those who establish and adopt the constitution to make any of its provisions self-executing,<sup>2</sup> that is, operative without any necessity for further legislation.<sup>3</sup>

Criteria which may be relevant in determining whether a constitutional provision is self-executing or not include a description of the right in detail such as the means for its enjoyment and protection; the absence of any directive to the legislature for further action; a particularly informative legislative history as to the provision's intended operation; and a consistency of self-execution with the scheme of rights established in the constitution as a whole.<sup>4</sup>

#### Observation:

Even without the benefit of a declaration that they are self-executing, constitutional provisions in Bills of Rights and those merely declaratory of the common law are usually considered self-executing, as are provisions which specifically prohibit particular conduct.<sup>5</sup>

A clear distinction exists between the questions whether a constitutional provision is mandatory or directory and whether it is self-executing or requires legislation in order to give it effect.<sup>6</sup> A provision may be mandatory without being self-executing,<sup>7</sup> and a provision may be self-executing even though it contains some mandatory language.<sup>8</sup>

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Footnotes

1 State ex rel. Stephan v. Finney, 254 Kan. 632, 867 P.2d 1034 (1994).

2 State ex rel. Stephan v. Finney, 254 Kan. 632, 867 P.2d 1034 (1994).

3 § 102.

4 Shields v. Gerhart, 163 Vt. 219, 658 A.2d 924 (1995).

5 Robb v. Shockoe Slip Foundation, 228 Va. 678, 324 S.E.2d 674 (1985).

6 State v. South Dakota Rural Credits Board, 45 S.D. 619, 189 N.W. 704 (1922).  
As to whether a constitutional provision is mandatory or directory, generally, see §§ 98 to 100.

7 Leser v. Lowenstein, 129 Md. 244, 98 A. 712 (1916); State v. South Dakota Rural Credits Board, 45 S.D. 619, 189 N.W. 704 (1922).

8 In re Larsen, 655 A.2d 239 (Pa. Ct. Jud. Discipline 1994).

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## 16 Am. Jur. 2d Constitutional Law § 102

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### Constitutional Law

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### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### a. In General

## § 102. Definition, nature, and effect of self-executing provisions of constitutions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 640

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[Implied cause of action for damages for violation of provisions of state constitutions, 75 A.L.R.5th 619](#)

A constitutional provision is self-executing if no legislation is necessary to give effect to it<sup>1</sup> and if there is nothing to be done by the legislature to put it in operation<sup>2</sup> unless a contrary intent is clearly shown.<sup>3</sup> A court can determine that a constitutional provision was intended to have immediate effect, and thus is self-executing, when the provision is both judicially definable and enforceable, even though its express language may be stated in relatively general terms.<sup>4</sup> For instance, a constitutional provision is self-executing if it provides sufficient direction by which the right at issue might be protected.<sup>5</sup> To be self-executing, a constitutional provision should do more than express only general principles; it may describe the right in detail, including the means for its enjoyment and protection.<sup>6</sup> Thus, usually no legislation is required to effectuate a constitutional provision that is prohibitory in its language.<sup>7</sup> However, the mere fact that a constitutional provision is prohibitory is not enough to demonstrate

it is self-executing, as required for a private right to sue for damages.<sup>8</sup> Conversely, the failure of the legislature to act cannot take away a right constitutionally granted.<sup>9</sup>

A constitutional provision addressed to the legislature is nonself-executing.<sup>10</sup> Likewise, a constitutional provision is not self-executing if it merely states a general principle without establishing any basis on which that principle may be enforced.<sup>11</sup> For instance, the protections of the Fifth Amendment are generally not self-executing.<sup>12</sup>

It is a well-established rule that constitutional provisions contemplating and requiring legislation to enforce them are not self-executing<sup>13</sup> and remain inoperative except as implemented by appropriate legislation which carries out the general spirit and purpose of the provisions.<sup>14</sup> A constitutional provision which assumes the existence of certain machinery to carry it out is not self-executing where the machinery previously provided by the legislature is not geared to the carrying out of the particular constitutional mandate.<sup>15</sup> Even if a constitutional provision contains a mandatory requirement that the legislature adopt a particular provision, there is no remedy if the legislature fails to obey such constitutional mandate.<sup>16</sup> However, the command of a constitutional provision which is not self-executing remains in force, even though it is for the legislature to choose the time and form for carrying out the command.<sup>17</sup>

A constitutional provision may be self-executing in one part and not self-executing in another part.<sup>18</sup>

It has been said that a court's ability to award damages for violation of a self-executing constitutional provision rests on the common law.<sup>19</sup> Courts may give effect to a constitutional provision without implementing legislation, as required for a private right to sue for damages, if the framers intended the provision to have immediate effect and if no ancillary legislation is necessary to the enjoyment of a right given, or the enforcement of a duty imposed.<sup>20</sup> When inquiring into whether a constitutional provision is self-executing, as required for a private right to sue for damages, courts ask whether the framers intended the provision to have immediate effect without implementing legislation or whether instead its terms would be understood as a general principle or line of policy requiring a legislative act to put it into effect.<sup>21</sup> However, a determination that a state constitutional provision is self-executing does not necessarily mean that monetary damages are the proper remedy for a violation.<sup>22</sup>

**Observation:**

The fact that a self-executing constitutional provision is operative without the need for supplemental legislation means that the provision is enforceable in a common-law action.<sup>23</sup> On the other hand, a challenge to a constitutional provision that is not self-executing fails to present a justiciable issue because the provision does not create a privately enforceable right.<sup>24</sup>

2                   [In re Protest Filed by Citizens for Merit Selection of Judges, Inc.](#), 49 Ohio St. 3d 102, 551 N.E.2d 150 (1990).  
3                   Ordinarily, a self-executing constitutional provision does not contain a directive to the legislature for further  
4                   action. [Zullo v. State](#), 2019 VT 1, 205 A.3d 466 (Vt. 2019).  
5                   [McDougall v. Marin County](#), 208 Cal. App. 2d 65, 25 Cal. Rptr. 107 (1st Dist. 1962).  
6                   [Harvey v. Ute Indian Tribe of Uintah and Ouray Reservation](#), 2017 UT 75, 416 P.3d 401 (Utah 2017), cert. denied, 139 S. Ct. 784, 202 L. Ed. 2d 567 (2019).  
7                   [Zullo v. State](#), 2019 VT 1, 205 A.3d 466 (Vt. 2019).  
8                   [Zullo v. State](#), 2019 VT 1, 205 A.3d 466 (Vt. 2019).  
9                   § 107.  
10                  [Kuchcinski v. Box Elder County](#), 2019 UT 21, 450 P.3d 1056 (Utah 2019).  
11                  [Rose v. State](#), 19 Cal. 2d 713, 123 P.2d 505 (1942).  
12                  [Montana Independent Living Project v. Department of Transportation](#), 2019 MT 298, 398 Mont. 204, 454 P.3d 1216 (2019).  
13                  [Zullo v. State](#), 2019 VT 1, 205 A.3d 466 (Vt. 2019).  
14                  [State v. Weichman](#), 292 Neb. 227, 871 N.W.2d 768 (2015).  
15                  [Moosa v. Abdalla](#), 248 La. 344, 178 So. 2d 273 (1965).  
16                  As to tests to determine whether provision is self-executing, see §§ 105 to 107.  
17                  [Uhlmann v. Conway](#), 277 A.D. 478, 101 N.Y.S.2d 4 (3d Dep't 1950).  
18                  [O'Neill v. White](#), 343 Pa. 96, 22 A.2d 25 (1941).  
19                  [Ursuline Academy of Cleveland v. Board of Tax Appeals](#), 141 Ohio St. 563, 26 Ohio Op. 152, 49 N.E.2d 674 (1943) (overruled in part on other grounds by, [Denison University v. Board of Tax Appeals](#), 2 Ohio St. 2d 17, 31 Ohio Op. 2d 10, 205 N.E.2d 896 (1965)).  
20                  [Palmer v. Board of Education of Union Free School Dist. No. 2, Town of Geddes, Onondaga County](#), 276 N.Y. 222, 11 N.E.2d 887 (1937).  
21                  [In re Assessments For Year 2003 of Certain Properties Owned by Affordable Residential Communities](#) 7, L.L.C. and Affordable Residential Communities 8, L.L.C., 2006 OK CIV APP 147, 150 P.3d 399 (Div. 2 2006).  
22                  [Spackman ex rel. Spackman v. Board of Educ. of Box Elder County School Dist.](#), 2000 UT 87, 16 P.3d 533 (Utah 2000).  
23                  The fact that a constitutional provision is self-executing does not necessarily mean that monetary damages are proper remedies for its violation. [Shields v. Gerhart](#), 163 Vt. 219, 658 A.2d 924 (1995).  
24                  [Kuchcinski v. Box Elder County](#), 2019 UT 21, 450 P.3d 1056 (Utah 2019).  
                        [Kuchcinski v. Box Elder County](#), 2019 UT 21, 450 P.3d 1056 (Utah 2019).  
                        [Zullo v. State](#), 2019 VT 1, 205 A.3d 466 (Vt. 2019).  
                        [Gray v. Virginia Secretary of Trans.](#), 276 Va. 93, 662 S.E.2d 66 (2008).  
                        [Developmental Pathways v. Ritter](#), 178 P.3d 524 (Colo. 2008).

## 16 Am. Jur. 2d Constitutional Law § 103

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### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### a. In General

## § 103. Presumption of constitutional provisions as self-executing

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 619

Constitutional provisions are presumed to be self-executing, and this presumption is even more appropriate when considering initiated amendments.<sup>1</sup> Modern state constitutions have been generally drafted upon the principle that all provisions of a constitution are self-executing.<sup>2</sup> As in the case of the question whether a constitutional provision is mandatory or directory,<sup>3</sup> the courts may be influenced in interpreting such provisions as self-executing rather than as requiring legislation by the knowledge that if not treated as self-executing, the legislature would have the power to ignore and practically nullify the directions of the fundamental law.<sup>4</sup>

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### Footnotes

- <sup>1</sup> [Alliance for a Safe and Independent Woodmen Hills v. Campaign Integrity Watchdog, LLC](#), 2019 CO 76, 450 P.3d 282 (Colo. 2019).
- <sup>2</sup> [Himaka v. Buddhist Churches of America](#), 919 F. Supp. 332 (N.D. Cal. 1995); [Rockefeller v. Hogue](#), 244 Ark. 1029, 429 S.W.2d 85 (1968); [Gray v. Bryant](#), 125 So. 2d 846 (Fla. 1960).
- <sup>3</sup> §§ 98 to 100.



## 16 Am. Jur. 2d Constitutional Law § 104

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### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### a. In General

## § 104. Effect of status of constitutional provision as self-executing or not upon legislative power

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 619, 640

A self-executing provision of a constitution does not necessarily exhaust legislative power on the subject.<sup>1</sup> The fact that the right granted by a constitutional provision may be supplemented by legislation further protecting the right or making it available does not, of itself, prevent the provision from being self-executing.<sup>2</sup> A legislature may implement or facilitate a self-executing constitutional provision<sup>3</sup> although any legislation must be in harmony with the constitution and further the exercise of the constitutional right and make it more available.<sup>4</sup> Legislation may be enacted to prescribe a practice to be used for a self-executing provision's enforcement to provide a convenient remedy for the protection of the rights secured or the determination thereof or to place reasonable safeguards around the exercise of the right.<sup>5</sup> It has also been said that the legislature retains the power to enact statutes to better protect the rights granted, provide a more specific and convenient remedy for carrying out the constitutional language, or supply particulars where the constitutional language is not as complete as may be desirable.<sup>6</sup>

Even though a provision states that it is self-executing, some legislative action may be necessary to effectuate its purposes.<sup>7</sup> However, legislative authority to provide the method of exercising a constitutional power exists only where the constitutional provisions themselves do not provide the manner, means, and methods for executing the powers therein conferred.<sup>8</sup>

A self-executing constitutional provision may not be curtailed or qualified by statute.<sup>9</sup> Legislation which would defeat or even restrict a self-executing mandate of a constitution is beyond the power of the legislature.<sup>10</sup> Thus, if a constitutional provision is self-executing, the legislature has no power to abridge or extend its pronouncement.<sup>11</sup>

If a constitutional provision is not self-executing, the legislature may act to implement the constitution and may qualify, curtail, or extend its provisions although the legislature has no power to grant exemptions which are beyond constitutional limits.<sup>12</sup>

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Footnotes

- 1      [In re Inter-Faith Villa, L.P.](#), 39 Kan. App. 2d 810, 185 P.3d 295 (2008) (abrogated on other grounds by, [In re Mental Health Ass'n of Heartland](#), 289 Kan. 1209, 221 P.3d 580 (2009)).
- 2      [Florida Hosp. Waterman, Inc. v. Buster](#), 984 So. 2d 478 (Fla. 2008).
- 3      [Developmental Pathways v. Ritter](#), 178 P.3d 524 (Colo. 2008).
- 4      [In re Inter-Faith Villa, L.P.](#), 39 Kan. App. 2d 810, 185 P.3d 295 (2008) (abrogated on other grounds by, [In re Mental Health Ass'n of Heartland](#), 289 Kan. 1209, 221 P.3d 580 (2009)).
- 5      [In re Inter-Faith Villa, L.P.](#), 39 Kan. App. 2d 810, 185 P.3d 295 (2008) (abrogated on other grounds by, [In re Mental Health Ass'n of Heartland](#), 289 Kan. 1209, 221 P.3d 580 (2009)).
- 6      [Movants to Quash Multicounty Grand Jury Subpoena v. Dixon](#), 2008 OK 36, 184 P.3d 546 (Okla. 2008).
- 7      [Modesto Properties Co. v. State Water Rights Bd.](#), 179 Cal. App. 2d 856, 4 Cal. Rptr. 226 (3d Dist. 1960).
- 8      [City of Middletown v. City Commission of Middletown](#), 15 Ohio Op. 361, 29 Ohio L. Abs. 625, 3 Ohio Supp. 150 (C.P. 1939), aff'd, 138 Ohio St. 596, 21 Ohio Op. 481, 37 N.E.2d 609 (1941).
- 9      [Morita v. Gorak](#), 145 Haw. 385, 453 P.3d 205 (2019).
- 10     [In re Inter-Faith Villa, L.P.](#), 39 Kan. App. 2d 810, 185 P.3d 295 (2008) (abrogated on other grounds by, [In re Mental Health Ass'n of Heartland](#), 289 Kan. 1209, 221 P.3d 580 (2009)).
- 11     [Movants to Quash Multicounty Grand Jury Subpoena v. Dixon](#), 2008 OK 36, 184 P.3d 546 (Okla. 2008).
- 12     [In re Assessments For Year 2003 of Certain Properties Owned by Affordable Residential Communities 7, L.L.C. and Affordable Residential Communities 8, L.L.C.](#), 2006 OK CIV APP 147, 150 P.3d 399 (Div. 2 2006).

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## 16 Am. Jur. 2d Constitutional Law § 105

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### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### b. Tests

## § 105. Tests to determine whether constitutional provision is self-executing, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 640

The basic guide, or test, in determining whether a constitutional provision is self-executing is whether the provision lays down a sufficient rule by means of which the right or purpose which it gives or is intended to accomplish may be determined, enjoyed, or protected without the aid of legislative enactment.<sup>1</sup> If the provision lays down a sufficient rule, it speaks for the entire people and is self-executing.<sup>2</sup> In other words, it must be regarded as self-executing if the nature and extent of the right conferred and the liability imposed are fixed by the constitution itself so that they can be determined by an examination and construction of its terms and if there is no language indicating that the subject is referred to the legislature for action.<sup>3</sup>

A constitutional provision is not self-executing when it merely indicates principles without laying down rules by means of which those principles may be given the force of law.<sup>4</sup> Where a constitutional provision contains a suggestion that additional legislation is needed for carrying its provisions into effect, the provision is not self-executing.<sup>5</sup>

A constitutional provision is self-executing when it expressly so declares and even without benefit of such a declaration, constitutional provisions in bills of rights and those merely declaratory of the common law are usually considered self-executing, and the same is true of provisions which specifically prohibit particular conduct.<sup>6</sup>

In determining whether a constitutional provision is self-executing, the state supreme court determines whether the acknowledgement of a cause of action would lead to absurd results or create a redundancy of rights or, instead, if such a cause of action is important in constitutional structure.<sup>7</sup>

If a constitutional provision is so vague as not to admit of an understanding of its intended scope, it cannot be self-executing, and a constitutional provision will not be construed as self-executing when to do so would work confusion and mischief.<sup>8</sup>

**Observation:**

The question of the self-execution of a constitutional provision is an individualized inquiry, dependent upon the particular provision at issue, focusing on the intent behind the provision's enactment, and a court looks to the language used and the object to be accomplished.<sup>9</sup>

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Footnotes

- 1 Florida Hosp. Waterman, Inc. v. Buster, 984 So. 2d 478 (Fla. 2008).
- 2 Florida Hosp. Waterman, Inc. v. Buster, 984 So. 2d 478 (Fla. 2008).
- 3 Wann v. Reorganized School Dist. No. 6 of St. Francois County, 293 S.W.2d 408 (Mo. 1956).
- 4 Gray v. Virginia Secretary of Trans., 276 Va. 93, 662 S.E.2d 66 (2008).
- 5 In re Assessments For Year 2003 of Certain Properties Owned by Affordable Residential Communities 7, L.L.C. and Affordable Residential Communities 8, L.L.C., 2006 OK CIV APP 147, 150 P.3d 399 (Div. 2 2006).
- 6 Gray v. Virginia Secretary of Trans., 276 Va. 93, 662 S.E.2d 66 (2008).
- 7 In re Town Highway No. 20, 191 Vt. 231, 2012 VT 17, 45 A.3d 54 (2012).  
The Common Benefits Clause of the Vermont Constitution was self-executing, although it did not provide a private remedy for discriminatory treatment; the lack of a specific remedy did not itself defeat the contention that it was self-executing, the Clause expressed a fundamental right that government was created to benefit all of the people and that preferential treatment for any single person, family, or set of persons was prohibited, afforded citizens the right to challenge perceived partiality by a governmental entity, and ensured the vigorous protection for the community compact that was the heart of government so that a private right of action under the Clause did no injury to the framework of protections laid out in the Constitution. [In re Town Highway No. 20, 191 Vt. 231, 2012 VT 17, 45 A.3d 54 \(2012\)](#).
- 8 In re V, 306 S.W.2d 461 (Mo. 1957).
- 9 Developmental Pathways v. Ritter, 178 P.3d 524 (Colo. 2008).

## 16 Am. Jur. 2d Constitutional Law § 106

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### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### b. Tests

## § 106. Constitutional provision as addressed to legislature considered not self-executing

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 640

Since a constitutional provision which depends upon legislative action for its effectiveness is *ipso facto*, not self-executing,<sup>1</sup> it follows that in determining whether a provision is self-executing, the question in every case is whether the language of a constitutional provision is addressed to the courts or to the legislature.<sup>2</sup> Constitutional provisions to the effect that laws may be passed by the legislature for particular purposes are not self-executing,<sup>3</sup> and a provision that the legislature should make suitable provisions for carrying a constitutional amendment into effect is obviously addressed to the legislature and is indicative of the intention that such amendment should not become effective until made so by an act of the legislature.<sup>4</sup> Thus, a provision that a thing will be done "as provided by law,"<sup>5</sup> or "in the manner to be prescribed by law,"<sup>6</sup> or a provision that the legislature "will provide by law," is not self-executing.<sup>7</sup> Nevertheless, minor details may be left for the legislature to enact without impairing the self-executing nature of constitutional provisions.<sup>8</sup>

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### Footnotes

<sup>1</sup> [§ 102.](#)

<sup>2</sup> [State ex rel. Russell v. Bliss](#), 156 Ohio St. 147, 46 Ohio Op. 3, 101 N.E.2d 289 (1951).

3 Warm v. City of Cincinnati, 9 Ohio Op. 53, 25 Ohio L. Abs. 338, 1 Ohio Supp. 273 (C.P. 1937), aff'd, 57  
Ohio App. 43, 9 Ohio Op. 270, 25 Ohio L. Abs. 368, 11 N.E.2d 281 (1st Dist. Hamilton County 1937).  
4 Maddox v. Hunt, 1938 OK 495, 183 Okla. 465, 83 P.2d 553 (1938).  
5 Wann v. Reorganized School Dist. No. 6 of St. Francois County, 293 S.W.2d 408 (Mo. 1956).  
6 People v. Carroll, 7 Misc. 2d 581, 161 N.Y.S.2d 339 (County Ct. 1957), order aff'd, 4 A.D.2d 537, 168  
N.Y.S.2d 265 (2d Dep't 1957), order aff'd, 3 N.Y.2d 686, 171 N.Y.S.2d 812, 148 N.E.2d 875 (1958).  
7 Cox v. State, 134 Neb. 751, 279 N.W. 482 (1938).  
8 State ex rel. Randolph County v. Walden, 357 Mo. 167, 206 S.W.2d 979 (1947).

A provision of the state constitution governing the reclassification of agricultural lands did not require the Land Use Commission (LUC) to stay reclassification proceedings pending the completion of the county important agricultural lands (IAL) designation process; the provision was not self-executing, and the plain language of the provision expressed no intent to require the LUC to stay reclassification proceedings pending the formal identification of IALs. *Sierra Club v. D.R. Horton-Schuler Homes, LLC*, 136 Haw. 505, 364 P.3d 213 (2015).

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### IV. Construction of Constitutions

#### D. Construction to Determine Operative Effect

##### 2. As Self-Executing or Not Self-Executing

###### b. Tests

## § 107. Constitutional provision as stating prohibition construed to be self-executing

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 640

Prohibitory provisions in a constitution are usually self-executing to the extent that anything done in violation of them is void.<sup>1</sup> However, the general principle that prohibitory provisions prevent their violation without legislation does not go beyond reasonable limits. Such provisions are not self-executing when they merely indicate principles without laying down rules by which they may be given the force of law,<sup>2</sup> and a nonprohibitory constitutional provision which does not merely permit but directs the legislature to implement a newly conferred right is not self-executing unless the legislative directive is purposeless because the provision is so complete with respect to the nature of the right and the means of its enforcement as to deprive the legislature of any discretion in either respect.<sup>3</sup>

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### Footnotes

- 1 [People v. Western Air Lines](#), 42 Cal. 2d 621, 268 P.2d 723 (1954).  
Provisions of a constitution of a negative character are generally, if not universally, construed to be self-executing. [Gray v. Virginia Secretary of Trans.](#), 276 Va. 93, 662 S.E.2d 66 (2008).
- 2 [Wren v. Dixon](#), 40 Nev. 170, 161 P. 722 (1916).
- 3 [People v. Vega-Hernandez](#), 179 Cal. App. 3d 1084, 225 Cal. Rptr. 209 (1st Dist. 1986).

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